

REMARKS

The present amendment revises the claims to define the features of the invention. In particular, claim 1 is amended to recite the step of heating the tissue to a temperature of at least 47°C as disclosed on page 10 of the specification. Claim 1 is also amended to define the first liposomes as releasing the first fluorescent dye at a temperature of about 45°C to 49°C as disclosed on page 10 of the specification.

Claim 1 recites heating the tissue to a temperature to kill the cells. As noted in the specification, tissue and cell damage does not occur at 41°C as in the process disclosed in the art of record. The art of record clearly avoids cell and tissue damage, and thus, expressly discloses heating only to about 41°C, which is well known to be the temperature at which little or no tissue and cell damage occurs. The prior Office Action states that Zeimer heats to cause tissue damage. However, this contention is inconsistent with the Zeimer patent as a whole. The passage cited in the Action only recognizes that tissue damage can occur by heat, but provides no suggestion that the Zeimer process intends to or in fact does cause tissue damage by heating.

As amended, the temperature recited in claim 1 is well above the maximum temperature of Zeimer. Zeimer provides no motivation or incentive to heat the tissue to 45°C as now claimed. New claims 35-37 depend from claim 1 to recite the step of heating the tissue in the target site to 47°C to 49°C, the second dye releasing the dye at a temperature of 50°C to 60°C and reducing the temperature to 49°C or less in response to detecting the release of the second dye. These features of the invention are supported on pages 11 and 20 of the specification.

Independent claim 10 is amended to recite the fluorescent dye from the liposome being released at a temperature of 45°C to 49°C and heating the tissue to a temperature of

45°C. Support for these amendments is found on page 15 of the specification. Claim 13 is amended to recite the step of heating the target site to 47°C to 49°C as disclosed on page 11 of the specification. Independent claim 23 is amended in a manner similar to claim 1 and is supported on page 15 of the specification.

New claim 38 depends from claim 23 to recite the target site being in the eye. New claim 39 recites the step of heating the tissue in the target site below the temperature where the second dye is released. Claim 40 recites the step of monitoring and detecting the release of the second dye and reducing the temperature in response to the second dye being released and detected. These claims are fully supported by the specification and claims as originally filed.

The art of record does not disclose or suggest the features of the claimed process. Accordingly, the claims are submitted to be in condition for allowance.

Respectfully submitted,



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